IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.7 OF 2006

Shri Namdev Shiva Shetgaonkar .... Petitioner
Vs.
Shri Vishnu Vasu Shetgaonkar & Ors. .... Respondents

Shri E. Dias for the Petitioner.

Shri G. Shirodkar for the Respondent No.1.

Ms S. Linhares, AGA, for the Respondent No.3.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: MARCH 02, 2006

P.C:

1. Heard. Only grievance which is sought to be made by the petitioner is that, without any proceedings having been initiated under any of the provisions of law comprised under Section 66(1) to 66(6), the respondent No.3 could not have invoked the powers under Section 66(7) of the Goa Panchayat Raj Act, 1994, hereinafter called as "the said Act".

2. It is undisputed fact that the respondent No.3 sought to invoke the powers under Section 66(7) of the said Act solely on the basis of the notice issued by the respondent No.2 on 9-5-2005. It is undisputed as well as a matter of record that the notice dated 9-5-2005 was issued in exercise of the powers under Section 64(j) which relates to stop order notice.

3. The Section 66(7) of the said Act clearly provides that an appeal shall lie to the Director, within a period of thirty days from any order or direction or notice issued under any of the provisions of the said Section and the decision of the Director on such appeal shall be final. Obviously therefore, the learned Advocate for the petitioner is justified in submitting that the respondent No.3 could not have invoked the powers under Section 66(7) in the absence of any order having been passed or any direction having been issued by the Panchayat or any notice having been issued under any of the provisions of Section 66. Once it is not in dispute that the respondent No.3 sought to invoke the powers under Section 66(7) solely on the basis of the notice issued by the respondent No.2 under Section 64(j) of the said Act, the impugned order and the proceedings cannot be sustained and are liable to be quashed and set aside.

4. It is also informed that the respondent No.2 has already issued show cause notice in terms of Section 66(3) of the said Act and the respondent No.2 is seized with the matter. Needless to say that the matter being relating to the alleged illegal construction, and the Panchayat having already issued

show cause notice, the Panchayat is expected to dispose of the matter as expeditiously as possible, in

accordance with the provisions of law.

5. In the result, therefore, the petition succeeds. The impugned order and the proceedings which were initiated by the respondent No.3 under Section 66(7) solely on the basis of the notice dated 9-5-2005, issued by the respondent No.2 under Section 64(j) of the said Act, are hereby quashed and set aside. The respondent No.2 is expected to dispose of the proceedings initiated by issuance of the notice under Section 66(3) of the said Act, as expeditiously as possible and to pass appropriate order in accordance with the provisions of law. With these directions and observations, the petition is disposed of with no order as to costs.

(R.M.S.Khandeparkar,J.)

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